IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S.ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 4336 of 2005

Between:

M/s. K.C.P. Builders, 3-308,

Y.M.R. Colony, Proddatur,

Kadapa District,
A.P. rep by its Partner Sri K. Anil Kumar

..... PETITIONER

AND

1 The Additional Commissioner (CT) Legal,

A.P., III Floor, C.T. Building, M.J. Road,

Nampally,
Hyderabad.
2 The Commercial Tax Officer-II,

Proddatur, Kadapa Dsitrict, A.P.
3 The Sales Tax Appellate Tribunal,

Rep by its Secretary Ground Floor,

C.T. Building,
M.J. Road, Nampally,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ Order or Direction more particularly one in the nature of MANDAMUS by holding that the impugned order of the First Respondent in CCT's Ref. No. LV(3)/3294/2004, dt. 16-2-2005, rejecting the stay petition filed by the petitioner as illegal and consequently granting stay of collection of the disputed tax of Rs. 10,29,396-00 for the Assessment year 1999-2000 APGST pending disposal of the Appeal filed by the petitioner before the Sales Tax Appellate Tribunal, A.P. Hyderabad, the Third Respondent herein, and pass such other Order or Orders as may be deemed fit and proper in the circumstances of the case and in the interests of justice

Counsel for the Petitioner:MR.G.NARENDRA CHETTY

Counsel for the Respondents.: Spl. GP FOR COMMERCIAL TAX

L.K.Raji Reddy

The Court made the following :

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ORDER:(per TCSR,J)

The grievance of the petitioner seems to be that its request for stay of collection of an amount of Rs.10,29,396/- was rejected illegally.

Obviously, the petitioner is entitled to refund of the excess tax paid by it to the extent of Rs.2,13,143/- as can be seen from the proceedings of the Commercial Tax Officer dated 30-12-2003.

Since it is a case, where the grievance of petitioner is that its stay application is rejected, we feel it appropriate to pass usual orders which are being passed by this

court, while working out the equities to subserve the interests of both parties.

The writ petition is allowed with the directions as under:-

The petitioner shall deposit 50% of the disputed tax after giving credit to the amount which it is entitled to be refunded i.e., Rs.2,13,143/-. It shall deposit the said amount on or before 31-03-2005, in which event, no coercive steps for collection of the balance of sales tax, shall be taken. On such deposit, the Sales Tax Appellate Tribunal shall dispose of the appeal as expeditiously as possible by passing appropriate orders in accordance with law. No order as to costs.

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M.H.S.ANSARI, J

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T.CH.SURYA RAO, J

Date: 16-03-2005

Prv

To

1 The Additional Commissioner (CT) Legal,

A.P., III Floor, C.T. Building,

M.J. Road, Nampally,
Hyderabad.

2 The Commercial Tax Officer-II,

Proddatur, Kadapa Dsitrict, A.P.

3 The Sales Tax Appellate Tribunal,

Rep by its Secretary Ground Floor,

C.T. Building, M.J. Road,

Nampally, Hyderabad.

4 Two CCs to GP FOR COMMERCIAL TAX,

High Court of A.P.,Hyderabad (O.U.T.)

5 2 CD copies

6 1 CC to MR.NARENDRA CHETTY